



For immediate release:

Joint Statement Against Coercive Contractual Practices

Brussels, 23th of April 2012

The undersigned organisations represent the interests of over thousands of journalists, songwriters, composers, film and television directors, screenwriters, illustrators and visual authors across Europe. Together, we call for immediate actions against coercive contractual practices facing creators in Europe.

EFJ, FERA, FSE, EVA, EIF and Pyramide Europe support the complaint brought by the European Composers and Songwriters Alliance (ECSA) on January 17th against a group of European broadcasters and their alleged anti-competitive practices through coercive commissioning and unfair contractual agreements signed under duress.

The ECSA case illustrates a wider problem facing not only Europe's composers and songwriters, but also journalists, musicians, directors, screenwriters, illustrators and photographers all of whom have been facing coercive contractual practices for too long. These practices seriously affect the livelihood of creators.

We support the [joint statement](#) of Society of Audio-visual Authors (SAA), Federation of European Film Directors (FERA) and Federation of Screenwriters Europe (FSE) released on April 10th, entitled an "End to buy outs in Europe".

Today authors are frequently coerced to waive, or assign parts of our statutory authors' rights in the name of freedom of contract and flexibility. "Flexibility", which merely allows producers and financiers to impose one sided contracts on individual authors with impunity. Individual creators are often forced to accept manifestly unfair contract terms and conditions which are drafted in advance and presented to them as a take-it-or-leave-it proposition: creators are regularly told that if they do not sign a particular contract, unamended, they will never work again for the company "offering" it.

This problem is compounded by concentration of ownership: in some cases there is a monopsony – a single buyer for one class of creative work. These unfair contracts are (in the great majority of EU Member States) irreversible once signed.

We see this as a distortion of the market and unfair competition. If authors are chosen not because of their professional qualifications, but on the basis of their willingness to assign more rights, or in worst case, waive all their rights, this will ultimately have a negative effect also for consumers.

CALL FOR ACTION – 8 Unwaivable Principles in Contractual Agreements

This situation affects the livelihood of millions of creators and, if left unregulated, will put Europe’s culture and democratic values at stake.

We demand that authors’ contracts be in compliance with the following key principles:

1. All creators shall receive fair pay (i.e. equitable remuneration) for each use of their work, throughout the duration of their authors’ rights
2. Additional use of their work must be subject to fair payment and negotiation between the creator and contracting party;
3. The offer of a commission must not depend on any publishing rights being assigned to the contracting party. It is recognised that the granting of publishing is the prerogative of authors and that authors are free to choose to whom to assign or license their rights;
4. All creators, whether freelance or employed, shall have the right to negotiate collectively with publishers, producers, broadcasters or other contracting parties;
5. All statutory transfer of authors’ rights (i.e. work-for-hire clauses) shall be deemed unenforceable;
6. Any right not specifically transferred by name shall be retained by the creator;
7. Any right that is not used, such as the failure of the publisher, producer, broadcaster or other commissioning party to release or exploit a work within a reasonable period of time, shall revert to the creator;
8. Full respect of moral rights as set out in Article 6bis of the Berne Convention.

Finally, we would like to emphasise that authors’ rights and copyrights provide a safety net without which creators would be critically disadvantaged in any commercial environment. The system of authors’ rights allows creators to be free from a climate of patronage that may subvert freedom of expression.

We strongly believe that the above principles are fundamental to ensuring a fair and sustainable environment in which creators can continue to nourish Europe’s culture and uphold our democratic values.

Please act now by [signing up to the petition](#) to end coercive contractual practices for creators!

About the undersigned organisations:

Founded in 2007, the **European Composer and Songwriter Alliance** (ESCA) comprises 43 composers' associations from 29 countries and speaks for approximately 14.000 composers and songwriters. The main objective of the alliance is to defend and promote the rights of authors of music by any legal means and to strive to improve social and economic development of music creation in Europe.

Contact: ESCA Secretary General Patrick Ager, +32 2 544 0333, info@composeralliance.org, www.composeralliance.org

Founded in 1980, the **Federation of European Film Directors** (FERA) contains 39 directors' associations from 29 countries. It speaks for approximately 20,000 European screen directors, representing their cultural, creative and economic interests vis à vis the European institutions and at the national level.

Contact: FERA CEO Elisabeth O. Sjaastad, +32 2 544 0333, elisabeth.sjaastad@filmdirectors.eu, www.filmdirectors.eu

The **International/European Federation of journalists** (IFJ/EFJ) is a regional Europe of the International Federation of Journalists, which represents over 260,000 journalists across Europe. The EFJ fights for social and professional rights of journalists working in all sectors of the media through strong trade unions. It strives to maintain or create environments in which quality, journalistic independence, pluralism, public service values and decent work in the media exist.

Contact: IFJ/EFJ Campaigns and Projects Officer Yuk Lan Wong, +32 2352 226, yuklan.wong@ifj.org, www.ifj.org

The **Federation of Screenwriters Europe** is a **network** of national and regional associations, guilds and unions of writers for the screen in Europe, created in June 2001. In 2011, it comprises 25 [members](#) from 19 countries, representing **more than 7,000 writers in Europe**.

Contact: David Kavanagh, +35 386 837 1203 www.scenaristes.org

The **European Visual Artists** (EVA) represents collective management organisations in Europe that manage rights of close to 110 000 painters, sculptors, photographers, illustrators, designers and other authors of visual works. EVA's purpose is to defend visual authors' rights within any EU policy and initiative.

Contact: EVA Secretary General, Carola Streul, +32 2 551 08 90, c.streul@evartists.org, www.evartists.org

The **European Illustrators Forum** (EIF) aims to safeguard of illustrators' rights and the continental promotion of illustration through the co-ordinated action of member associations on a local level and with a series of common initiatives on an international level, beginning with the First Illustrators Transnational Rendezvous held in Valencia in October 2003. Contact: www.eif.ilustracion.info

Pyramide Europe is the organisation representing groups of photographers, graphic designers, illustrators and other visual artists in the European Union. As a European Economic Interest Group, Pyramide Europe represents most of the 15 member states. Contact: www.elisanet.fi